

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JACK NAUGLE AND BEVERLY
NAUGLE,

Plaintiffs,

v.

BAC HOME LOANS SERVICING, LP,

Defendant.

CASE NO. C11-0071-JCC

ORDER

This matter comes before the Court on Defendant's motion for summary judgment (Dkt. No. 25). Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS the motion for the reasons explained herein.

Plaintiffs did not file a response to Defendant's motion. Local Rule 7(b)(2) provides in part: "If a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit." Pursuant to this rule, the Court deems Plaintiff's non-response to be an admission that Defendant's motion has merit.

This is not the first time that the Plaintiffs have failed to prosecute this case in a diligent manner. On December 28, 2011, the Court ordered the Plaintiffs to show cause why the case should not be dismissed for their refusal to participate in mediation with Defendant. (Dkt. No. 24.) Plaintiffs responded, three days late, stating that they had made offers to Defendant's

1 counsel and that in their opinion, this constituted mediation. (Dkt. No. 27.) It does not. An order
2 to mediate pursuant to Local Rule 39.1 requires specific procedures, including participation of a
3 neutral third party. LR 39.1(a)(3). Plaintiff has failed to comply with these procedures and,
4 therefore, failed to comply with the Court's order.

5 Due to Plaintiffs' non-response and their refusal to participate in actual mediation
6 proceedings, the Court GRANTS Defendant's motion (Dkt. No. 25) and DISMISSES Plaintiffs'
7 case with prejudice.

8 DATED this 8th day of March 2012.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE